Manitoba
Office of the Commissioner
Law Enforcement Review Agency (LERA)

Annual Report
2004

Manitoba

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ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable John Harvard
Lieutenant-Governor of Manitoba

May It Please Your Honour:

It is my pleasure to present the *2004 Annual Report of the Law Enforcement Review Agency.*

This report details the agency's accomplishments and activities for the 12-month period ending December 31, 2004.

I trust this meets with your approval.

Yours truly,

Honourable Gord Mackintosh
Minister of Justice
Attorney General

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INTRODUCTION

The Law Enforcement Review Act requires the commissioner to submit an annual report on the performance of his duties and functions to the minister and each municipality in the province with an established police department. The minister shall table the report in the Legislature.

LERA'S Mission Statement

The mission of the Law Enforcement Review Agency (LERA) is to deliver a judicious, timely, impartial, client-oriented service to the public and to the police services and police officers within its jurisdiction.

About LERA

What is LERA?

LERA is an independent, non-police agency, established under *The Law Enforcement Review Act* in 1985, to investigate public complaints about police.

LERA deals only with complaints about municipal police performance arising out of the performance of police duties. It does not investigate criminal matters.

LERA is staffed by a commissioner, an administrative officer, and professional investigators.

To whom does the act apply?

The act applies to any peace officer employed by a Manitoba municipal police department, including police chiefs. It does not apply to members of the RCMP.

Complaints about members of the RCMP should be directed to the Commission for Public Complaints against the RCMP, at **www.cpc-cpp.gc.ca** or by calling, toll free, 1-800-665-6878. Complaints about RCMP members received by LERA will be forwarded to the Commission for Public Complaints (CPC).

What does LERA investigate?

LERA investigates citizen allegations that municipal police officers have committed any of the following:

- abuse of authority, including:
    - making an arrest without reasonable or probable grounds
    - using unnecessary violence or excessive force
    - using oppressive or abusive conduct or language
    - being discourteous or uncivil
    - seeking improper monetary or personal advantage
    - serving or executing documents in a civil process without authorization
    - differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*
- making a false statement or destroying, concealing or altering any official document or record
- improperly disclosing any information acquired as a member of the police department
- failing to exercise discretion or restraint in the use and care of firearms
- damaging property or failing to report the damage

- failing to assist where there is a clear danger to the safety of a person or property
- violating the privacy of any person within the meaning of *The Privacy Act*
- contravening any part of *The Law Enforcement Review Act* that does not specify a penalty for the violation
- assisting, counselling or causing any person to commit officer misconduct

Who are complainants and respondents?

A complainant is any person who feels wronged by the conduct or actions of a municipal police officer in Manitoba and files a complaint. Complainants may file on their own behalf or on behalf of another person. LERA must obtain consent from that person before acting on the complaint.

A respondent is any police officer against whom a complaint has been filed by the public.

How is a complaint filed?

A complaint must be made in writing and signed. Date, time, location and other details of the incident are important and must be included. LERA staff or members of the local police service will help prepare a complaint if asked.

Written complaints may be submitted directly to LERA, a police chief or any member of a municipal police department. Police will forward complaints to LERA.

Are there time limits?

The act requires a complaint to be submitted within 30 days of the incident. The commissioner may extend that limit if there are valid reasons for being unable to submit the complaint on time.

The commissioner may also extend the 30-day filing limit to avoid conflict with court proceedings or ongoing criminal investigations involving a complaint.

How is a complaint investigated?

LERA has professional investigators who interview witnesses, take statements and review reports such as official police records and medical reports. LERA investigators conduct all inquiries they believe are necessary to uncover relevant evidence.

LERA may be contacted at any time to inquire about the status of a complaint. The commissioner remains open to discussion with all parties before making a final decision.

Preliminary screening of complaint

After the investigation, the commissioner will screen the complaint to decide if any further action should be taken. The act requires the commissioner to do this. A decision will be made by the commissioner to take no further action if any one of the following situations arise:

- the alleged conduct does not fall within the scope of misconduct covered by the act
- the complaint is frivolous or vexatious
- the complaint has been abandoned by the complainant
- there is not enough evidence to justify referring the complaint to a provincial judge for a public hearing

If the commissioner decides to close the matter and take no further action, the complainant will be notified in writing. The complainant will then have 30 days from the date of the decision to ask the commissioner to refer the matter to a provincial judge for review. Reviews are arranged by LERA at no cost to the complainant.

Does a complainant need a lawyer?

The complainant does not require a lawyer when dealing with LERA. The complainant and the police are both entitled to legal representation during the process if they choose. However, they must arrange for such services themselves.

If a complainant applies for legal aid and is declined, he/she may, in exceptional circumstances, make a request to the minister of justice to appoint a lawyer to represent him/her at a hearing.

Police officers in these cases are generally represented by a lawyer under their employment contract.

How are complaints resolved?

The act provides several ways to resolve complaints.

Informal Resolution:

The commissioner must try to resolve the complaint through informal mediation. Both the complainant and the police officer must agree to this process before it can take place. If the complaint is resolved informally, to the satisfaction of both the complainant and the respondent(s), no further action is taken and no record of the incident is made on the officer's service record.

Admission of Disciplinary Default:

A respondent can admit to the alleged officer misconduct. The commissioner then reviews the officer's service record and consults with the police chief before imposing a penalty.

Referral to Judge for Hearing:

If a complaint cannot be resolved informally, and there is no admission of officer misconduct, the commissioner must refer the complaint to a provincial judge for a public hearing.

Penalties that may be imposed by the provincial judge on the respondent(s) under *The Law Enforcement Review Act* are:

- dismissal
- permission to resign, or summary dismissal if the resignation is not received within seven days
- reduction in rank
- suspension without pay for up to 30 days
- loss of pay for up to 10 days
- loss of leave or days off for up to 10 days
- a written reprimand
- a verbal reprimand
- an admonition

LERA as an Agency

The Law Enforcement Review Agency (LERA) is an independent agency of Manitoba Justice, Criminal Justice Division, under *The Law Enforcement Review Act*.

The Lieutenant-Governor in Council charges the minister of justice, as a member of the executive council, with the administration of *The Law Enforcement Review Act*.

The Law Enforcement Review Act authorizes the Lieutenant-Governor in Council to appoint a commissioner.

The commissioner carries out investigations in compliance with *The Law Enforcement Review Act* and has powers of a commissioner under Part V of *The Manitoba Evidence Act*.

LERA is staffed by a commissioner, an administrative officer and two investigators.

LERA's address is:

420-155 Carlton Street
Winnipeg, Manitoba, R3C 3H8
Telephone: 204-945-8667 in Winnipeg; or toll free in Manitoba 1-800-282-8069
Facsimile: 204-948-1014

E-mail: lera@gov.mb.ca

Website: www.gov.mb.ca/justice/lera

Website Overview – 2004

LERA's website went online in September 2000 and as a "living document" enhancements have been made. The site contains the following information:

How to make a Complaint
History
Contact Us
The Law Enforcement Review Act and Regulations
Public Hearings and Reviews
News Releases
Annual Reports
Links
Site Map
Disclaimer & Copyright

2004 Web Trends report:

Visitors – 4,483
Pages viewed – 30,106
Average pages viewed per day – 82
Documents downloaded:

- Complaint Form – 475
- Annual report – 10,185
- Decisions – 28,014

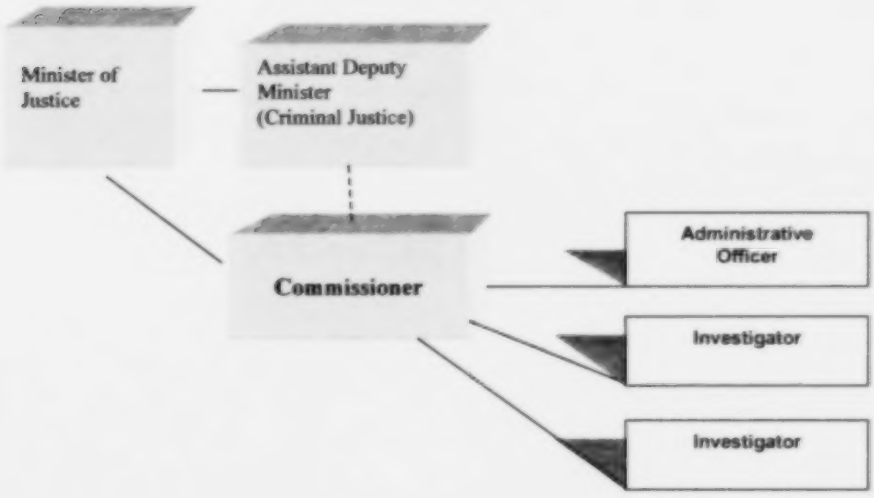
LERA'S Organizational Structure

The commissioner is required to submit an annual report on the performance of his duties and functions to the minister and to each municipality in the province that has established a police department.

From an administrative perspective, the commissioner reports directly to Criminal Justice Division's assistant deputy minister.

LERA's budget for the financial year beginning April 1, 2004 and ending March 31, 2005 is:

Full Time Employees	4
Total Salaries	$257.5
Total Other Expenditures	$ 63.3
Total	$320.8



Activities

During the year, the commissioner and/or staff:

- participated in meetings with the deputy minister of justice and the assistant deputy minister of Criminal Justice Division
- participated in meetings and discussions with police executives, police service members, executive members of police associations
- met with Manitoba Keewatinowi Okimakanak (MKO) Regional Consultive Group for policing
- met with Manitoba Ombudsmen staff member(s)
- participated in Canupawakpa Dakota First Nation Community Justice Forum
- participated in Sioux Valley Dakota Nation Youth Justice Awareness Day
- participated in Birdtail Sioux First Nation Community Justice Forum
- participated in the Manitoba Bar Association's Law Day open house at the Manitoba Law Courts Complex
- participated in meetings of a committee reviewing accessibility to LERA by Aboriginal peoples
- was interviewed by retired Judge J. Enns who was appointed by the minister of justice and attorney general to review the issue of crown disclosure in the James Driskell murder trial and appeal
- participated in the Western Canada Police Labour Relations Conference hosted by the Winnipeg Police Association
- was interviewed by CKX Brandon, CJOB Winnipeg, Radio Southern Manitoba (Altona), *Winnipeg Free Press* and *Winnipeg Sun*
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended the winter planning session and the annual conference for the National Association for the Civilian Oversight of Law Enforcement (NACOLE) in Chicago
- attended the annual conference for the Canadian Association for the Civilian Oversight of Law Enforcement (CACOLE) in Toronto
- attended the Brandon Police Service Community Appreciation Dinner
- attended Winnipeg Police Services Professional Standards Unit
- attended the Manitoba Attorney General's Safer Community Awards
- received the chairperson for the Commission for Public Complaints Against the RCMP
- received a representative from the Department of Safety and Security, Northern Cape Province, South Africa
- received the Community Justice Development co-coordinator for the Southern Chiefs Organization Inc.
- received the outreach co-coordinator for Kānī Kānīchihk Inc.
- met with Saskatchewan's police complaint investigator in Regina
- made two presentations to University of Brandon class studying policing in Canada Political Science Sociology course
- made presentation to the University of Winnipeg class studying the Sociology of Police and Law Enforcement
- made presentation to Winnipeg Police Service class of recently promoted sergeants
- made ongoing presentations to Winnipeg Police Service recruit classes
- developed and published a public poster
- updated and published a public brochure

Acknowledgements

- members of the public who make their complaints and concerns known to LERA
- complainants and respondents who are able to resolve their differences by informal resolution
- chiefs of police of Manitoba's municipal police services
- police associations and members of Manitoba's municipal police services
- legal counsel acting for complainants and respondents
- Manitoba Justice officials for their assistance and expertise
- LERA's staff, whose competence and commitment are vital to LERA's success as a civilian monitoring agency
- the many other stakeholders involved in the LERA process

Case Summaries

Commissioner's Decision to Take No Further Action

When LERA receives a complaint, the commissioner assigns an on-staff investigator to conduct an investigation into the complaint. When the investigation is completed it is the commissioner's job to review the results of the investigation to determine whether to take no further action in cases where:

- *the complaint is frivolous or vexatious*
- *the complaint is outside the scope of the disciplinary defaults listed in section 29 of the Act*
- *there is insufficient evidence to justify referring the matter to a public hearing; or the complaint has been abandoned*

In carrying out this duty the commissioner performs an important gate-keeping function that ensures complaints with no chance of success do not make their way to a public hearing. This function is designed to ensure that the LERA process runs more smoothly and efficiently and to preserve the legitimacy of the LERA process with the public.

Following are samples of cases in which the commissioner decided no further action was required:

- A man was driving his car when he claims he was cut off by a police car. He pulled up alongside the police car later and yelled at the officers. The man claims he was subsequently pulled over by the officers and given a traffic ticket. He also claims that he was handcuffed and forced into the back seat of the police car, suffering injuries to his wrists, elbow and back.

  When the officers were interviewed, they stated they were on their way to assist another unit and had not made any lane changes prior to the man pulling alongside and yelling at them. They saw that the man was weaving in his lane while yelling at them so they decided to pull him over and charge him with imprudent driving. The man was very aggressive when he was stopped, so he was told to get out of his car. He yelled in the face of one of the officers, so he was handcuffed and placed in the back of the police car. The officers denied forcing him into the car and even though he offered some resistance, he eventually sat in the car.

  The report showed the man had minor injuries to his elbow and back but made no mention of injuries to his wrists.

  At traffic court, the man was convicted of imprudent driving. When he left the court room, he was verbally abusive to one of the officers in the hallway. This abuse was seen by a lawyer and other witnesses. The lawyer told the man to be careful because there were other people around.

  The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

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- A man approached police at a convenience store parking lot to complain that he had just been attacked by a woman with a crowbar. He claimed the officer used excessive force on him and that he also threatened to beat him up. The man also claimed he was searched and thrown into the back seat of a police car. The man was upset that he was put into a police car while the woman with the crowbar was left standing there. The man also claimed he had just been standing nearby watching the police when the woman jumped out of her car and attacked him. The man felt he was being discriminated against because police did not charge the woman with any offence.

  The police were at the parking lot investigating a robbery complaint when the man approached them. He was being followed by a woman who had a crowbar in her hands. The woman was

crying and she complained to the officers that the man had raped her. The officer told her to put down the crowbar and she did as she was told. The man never complained to the officers that the woman had attacked him with the crowbar, but he complained about how sexist the system is. The officers separated the man and woman to prevent any incident. The man was taken by the arm, escorted to the police car and put in the back seat. The officer denied using excessive force and denied threatening to beat the man up. It was learned that the alleged rape incident had happened three years earlier and had been dealt with by the courts. It was also learned from the woman that she had seen the man arguing with a woman nearby who she knew to be a prostitute, like herself. She did get out of her car with a crowbar because she knew the man to be violent. She wanted to get him away from the prostitute so he would not harm her. After matters were sorted out, both the man and woman were allowed to go their separate ways, without any charges being laid.

Subsequently, the man was charged by other police officers for assaulting the woman with the crowbar. This assault took place before the crowbar incident but charges weren't laid until after this incident. The man now wanted the woman charged for the crowbar incident. A third pair of officers investigated the matter again but the Crown declined to proceed with charges against the woman.

The commissioner said there was insufficient evidence for a hearing and declined to take further action on the file.

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- A woman was driving her new truck on a provincial highway when she noticed that a sport utility vehicle (SUV) was following her very closely and this frightened her. She pulled over twice to let the vehicle pass but it did not do so. By this time, a transport truck came up behind the SUV and the driver started blowing the horn. She pulled over twice more before the SUV pulled out to pass her. As it passed, she noticed that the male passenger was flashing a badge at her, so she stopped on the side of the road. The SUV stopped in front of her and the male passenger came to her truck and identified himself as an off-duty municipal police officer. He demanded to see her licence and told her she was driving without due care, too slow and impeding traffic. The woman admitted she got into a screaming match with the officer when she told him the car salesman told her not to drive over 90 kilometres per hour until the truck was broken in. The officer told her he would be sending her a summons in the mail when he returned to work the following week.

  When the officer was interviewed, he said he was the passenger in the SUV being driven by his girlfriend and that there were two children in the vehicle. He noticed the woman in the truck was talking on a cell phone and driving well below the speed limit. Traffic on the highway was fairly heavy and when the woman pulled over, she did not move far enough to allow passing safely. After the truck driver honked, there was a sufficient break in the traffic so the SUV could pass. The officer flashed his badge to the woman and she made a rude gesture. After they had stopped, he identified himself again with his badge and gave his name to the woman. He told her that, by talking on the telephone, she was not paying enough attention to her driving. He also said he would be serving a summons on her for imprudent driving after he got back to work. When he got back to work, he checked the woman's driving record on the computer and then decided that a verbal warning would suffice. He telephoned the woman and cautioned her about her driving.

  The commissioner said there was insufficient evidence for a hearing and declined to take further action on the file.

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- A man was arrested by police who had their guns drawn. He was told to get down on the ground and when he got down on his knees, he was jumped by the officers and handcuffed. He also complained that, when he was on the ground, an officer punched him in the face and broke his nose. After this, the officer threatened to kick his head in, stood up and jumped on his back, breaking his ribs. His jacket was pulled over his head to hide his face before he was taken to the

police station by car. He also claimed he was threatened in the holding room at the police station by officers who came in wearing masks.

When the officers were interviewed, they said they had the man under surveillance for several days and they watched him break into a house where he was scared off by the occupant. He was arrested in a back alley. There was a bus stop nearby with people waiting for a bus. During the arrest, the man struggled with police on the icy road surface. They all lost their balance and fell to the ground with the man falling face down and the three officers landing on top of him. The officers denied that anyone punched, threatened or jumped on the man. They also denied that anyone came into the holding room at the police station wearing masks and threatening him.

The man later pleaded guilty to all the charges against him thereby admitting the officers' version of events was the correct one.

The commissioner said there was insufficient evidence for a hearing and declined to take further action on the file.

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- A man had been involved in a domestic violence incident with his wife. He was under a doctor's care for stress caused by a severe work injury. The man and his wife had gotten into an argument which became violent when he threatened suicide and went to the basement to get a shotgun. The woman was not aware that any firearms were in the house until she saw the gun case. She struggled to get the gun and case from the man but failed. The struggled was interrupted when the couple's nine-year-old daughter came downstairs. The woman told her daughter to call 911 and when she did, the man fled with the gun. The man claimed that when police arrested him in a hospital parking lot, there were 14 to 16 officers present and that they severely beat and kicked him, causing major injuries.

  The police report showed that, while two officers attended the residence to get particulars of the domestic assault incident, another unit came across the man in his car several blocks away. The man refused to stop for police and a high speed chase ensued. This chase lasted for a distance of eight kilometres and ended up in the hospital parking lot. The man was arrested at gunpoint and it took six officers to subdue him. Once he was handcuffed, he was taken into the hospital where his injuries were attended to.

  The hospital parking lot was covered by a security camera. When the tape from this camera was viewed, it showed the officers struggling with the man and finally getting him down on the ground. It also showed that no officer kicked or beat the man during his arrest. The medical report showed that the man's injuries were consistent with the struggle to arrest him and did not support his claim that he was kicked and beaten.

  The commissioner said there was insufficient evidence for a hearing and declined to take further action on the file.

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Case Summaries

Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action

When the commissioner declines to take further action on a complaint, the complainant may apply to the commissioner to have the decision reviewed by a provincial judge. Section 13(2) of The Law Enforcement Review Act *says the commissioner must receive this application within 30 days after the date the decision was sent to the complainant.*

Following are samples of these applications.

- A woman had trouble with her neighbor's dog running loose and coming into her yard. She managed to capture the dog but it slipped its collar and got away. She kept the collar and made several attempts to drop it off at city hall but hey refused to accept it.

  Subsequently, the owner of the dog filed a complaint with the police accusing the woman of theft of the dog collar. Police obtained a search warrant and came to her house to retrieve the collar. The woman produced the collar but refused to hand it over until police signed a receipt for it. One of the officers grabbed the collar and the woman was arrested and taken to the police station where she was processed and released.

  The commissioner declined to take further action because he felt the complaint was frivolous and vexatious. The woman asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge disagreed with the commissioner's decision that the complaint was frivolous and vexatious. He also took issue with the legality and necessity of the woman being arrested and directed that the matter be referred to a public hearing.

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- A man had visited an elderly patient a number of times in a personal care facility attached to a hospital. During these visits he made loud comments to staff members that they were threatening and intimidating. Police were called after the man's last visit and the staff requested the police speak to him about his statements.

  When police went to the man's house, he was loud and unco-operative when they tried to explain their reasons for being there. After police left, the man called LERA to complain about the officers making inappropriate comments to him. In particular, he said one officer threatened him with a rude, inappropriate comment if he complained to LERA. However, when the man gave his written statement to LERA several days later, the comment wasn't in it.

  The LERA investigation included interviews with hospital staff and confirmed the police version of events. The interviews reflected the man's allegation that police had improperly given his personal information to the staff.

  The commissioner declined to take further action because he felt the complaint was frivolous and vexatious. The man asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge agreed that the commissioner was correct in declining to take further action on this complaint.

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- A man had just been released from jail and went to a woman's house because he had been invited to stay there until he found his own place. During the day, he drank a considerable amount

of alcohol, became verbally abusive and then physically violent towards the woman. She called the police and by the time they arrived, the man was already out of the house. The police took the man into custody but he resisted and force was needed to control him. The man claimed he was falsely arrested and that excessive force was used during the arrest.

The LERA investigation included a civilian witness and medical reports that clearly contradicted the excessive force allegations. The false arrest allegation was contradicted by the fact the man was intoxicated contrary to the conditions placed on his release from jail.

The commissioner declined to take further action on the grounds that there was insufficient evidence to take the matter to a public hearing. The man asked to have a provincial judge review the commissioner's decision.

DECISION: The man failed to appear at the review so the judge dismissed his complaint.

******

- A man called police to complain about a girl who had trespassed on his property and he wanted her charged. He was invited to the police station to provide a written statement. When he came to the station, it was explained to him that, if charges were laid, the man would have to appear in court as a witness. The man felt the officer was trying to intimidate him into not proceeding with this case. He also felt the officer was being verbally abusive to him.

  The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

  Decision: Before a review date could be set, the man wrote to the Chief Judge to say he was abandoning his complaint. The judge closed the court file.

******

- A man had gone to a same-sex marriage protest rally at a government building when the rally was disrupted by counter protesters. The man was upset that the police, who were at the scene, did nothing to stop the disruption by the other protesters. When the man asked an officer to stop the disruption, the officer told him this group had a right to protest, too.

  The commissioner declined to take further action because the man's complaint about lack of police action did not amount to a disciplinary default under Section 29 of *The Law Enforcement Review Act*. The man asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge agreed with the commissioner's decision and dismissed the complaint.

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Case Summaries

Informal Resolution of Complaints

Under Section 15, the LERA commissioner provides the complainant and respondent with an opportunity to informally resolve the complaint. The process is often, but not always, successful. To be successful, the process must satisfy each of the parties involved. There is no single model for informal resolutions; they can range from a simple explanation of a police officer's action or a discussion to clear up a misunderstanding, to an apology or reimbursement for damages caused in the incident.

Following are examples of complaints resolved informally in 2004:

- A man had played hockey with friends and then had several drinks after the game. When he got home, he wanted to hold his baby but his girlfriend wouldn't let him because he was too drunk. They started to argue, so the girlfriend went to another apartment and called the police. When police arrived, they found the man arguing with three women. When the officers tried to get him to leave the apartment, he started to fight with them, ripping one officer's shirt and attempting to bite him. He was arrested after a brief struggle and taken to the police station where he was later released. The man claimed he received serious injuries from the police during the arrest.

The complaint was resolved with a meeting between the man and the officers involved.

******

- Police were called to an apartment where a woman was threatening to kill herself. Upon arrival, they heard two women arguing in the apartment, so they knocked on the door. When the door opened, they saw one woman had two knives in her hands. She yelled at the officers and slammed the door shut. The officers, fearing that the woman may harm herself or the other woman, broke down the door and entered with weapons drawn. They were successful in arresting the woman without injuries to anyone. When they left the apartment block with the woman, the caretaker got involved by demanding to know why the officers had to break down the door. He was given the reason and told he could make a claim for damages. The man felt that the officers were abusive to him but he was willing to resolve the matter informally.

The complaint was resolved informally with a meeting between the man and the officers.

******

- A woman had been fighting with several tenants in the apartment block where she lived. She felt these tenants were trying to intimidate her and had threatened her. When she tried to report the matter to the police, they would not take her complaint because no criminal acts were identified by her. The woman wanted her concerns recorded at the police station in case something did happen to her at a later date.

The matter was resolved informally by having her statement of concerns forwarded to the chief of police through the office of the LERA Commissioner.

******

- A man and his wife were in their truck towing a fifth wheel trailer when they came upon a farm vehicle towing a hay baler. The man started to pass the farm vehicle when he noticed a police car behind him with its emergency lights flashing. He continued to pass the farm vehicle and, when he got back into his lane, he was pulled over. The man felt the officer was verbally abusive to him and that he should not have received two traffic tickets.

The complaint was resolved informally with a meeting between the man and the officer involved.

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- A woman was on the balcony at her apartment yelling and screaming, throwing things off the balcony and breaking beer bottles. Police were called. They found a young child frightened and crying when the woman opened her door to their knock. When the woman attempted to assault the officers, they subdued her and took her to the hospital where the doctor examined her and declared her fit to go to the drunk tank.

The complaint was resolved informally by the woman writing a letter of apology for her behavior. She advised that she suffers from a stress disorder and that the officers acted in her best interests when they apprehended her.

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Public Hearings before a Provincial Judge

Public hearings under The Law Enforcement Review Act *(*TLERA*) are held before provincial judges. They do not sit in their usual capacity as members of the Provincial Court. A public hearing is only held after a matter has been referred by the commissioner under Section 17.*

Where a public hearing has been referred by the commissioner, Section 27(2) of TLERA *states: "The provincial judge hearing the matter shall dismiss a complaint in respect of an alleged disciplinary default unless he or she is satisfied on clear and convincing evidence that the respondent has committed the disciplinary default."*

The "clear and convincing evidence" standard was added to the act in 1992. It is not worded the same as the more traditional standards that are used in other contexts. In criminal cases the standard is "beyond a reasonable doubt", which was used in the act until 1992. In civil cases, the standard is "balance of probabilities."

Provincial judges have ruled in past cases that since LERA's hearings are, in fact, civil proceedings, the standard of proof was "balance of probabilities" and not "clear and convincing evidence."

The provincial judges also ruled that "clear and convincing evidence" simply means the quality of evidence necessary to meet the standard of proof on a "balance of probabilities."

Following are samples of public hearings on the merits of complaints – 2004:

- A woman was driving a car with her two small children and another woman. She was stopped by police and given two traffic tickets; one for failing to stop at a stop sign and the other for failing to produce her driver's licence. She did not have the photo part of her licence with her at the time. The woman complained that the officers were abusive and discourteous to her.

  Officer Misconduct: two police officers

  Allegation: Abuse of authority by using oppressive or abusive conduct or language and being discourteous or uncivil toward the complainant

  Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

  ******

- A man was riding as a passenger in a truck when stopped by police. The man was handcuffed and placed in the back seat of the police car. He was not told why he was being handcuffed or placed into the police car. He was subsequently released without charges.

  Officer Misconduct: one police officer

  Allegation: Abuse of authority, by failing to inform the complainant of the reason for his detention, the right to retain and instruct counsel, and use of abusive or oppressive conduct or language

  Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

  ******

- A man was driving his truck with another man when he was stopped by police. The man was not told why he was being stopped and one of the officers shoved him and used inappropriate language toward him.

  Officer misconduct: one police officer

  Allegation: Abuse of authority by unnecessary violence or excessive force, using oppressive or abusive conduct or language and being discourteous or uncivil

  Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

******

- A woman was at a social for her parents when a disturbance broke out. She saw one of her relatives being arrested and tried to find out why. She was arrested and suffered injuries as a result. When she was taken to the drunk tank, she got into a fight with a police officer and suffered further injuries.

  Officer Misconduct: one officer

  Allegation: Abuse of authority by using excessive force and abusive language

  Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

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- A woman complained that police entered her house uninvited and without any warrant. They arrested her brother-in-law after a brief struggle during which he was injured.

  Officer Misconduct: four police officers

  Allegation: Abuse of authority by entering the woman's residence without lawful authority, using oppressive or abusive conduct and being discourteous or uncivil towards the woman

  Disposition: The complainant withdrew her complaint, so the hearing was cancelled by the judge.

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- A man was involved in a public protest at a downtown location when he was confronted by a police officer, with whom he had had several previous contacts. The officer advised the man that he had several traffic tickets for him as a result of his actions at a previous public protest. The man complained that the officer's conduct amounted to harassment.

  Officer Misconduct: one police officer

  Allegation: Abuse of authority by using oppressive or abusive conduct or language and being discourteous or uncivil toward the complainant

  Disposition: The judge ruled that the officer acted properly and dismissed the complaint.

******

- A man complained that he had been forcibly removed from a taxi by a police officer and suffered various injuries as a result.

Officer Misconduct: one police officer

Allegation: Abuse of authority by using unnecessary violent or excessive force on the complainant

Disposition: The judge found that the complainant grossly exaggerated his alleged injuries when compared to the medical evidence given by the doctor who saw him. The judge dismissed the complaint.

******

- A man complained that he had been a passenger in a car that was stopped by police. He was forcibly removed from the car, assaulted and taken to the drunk tank.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by arresting the man under *The Intoxicated Persons Detention Act*, using unnecessary violence or excessive force, using oppressive or abusive conduct or language and being discourteous or uncivil toward the complainant

  Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

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- A lawyer called the police station to speak with a young offender being held in custody. He was denied access to the young person on the grounds that the young person did not wish to speak with him.

  Officer Misconduct: one police officer

  Allegation: Abuse of authority by being discourteous or uncivil towards the complainant

  Disposition: The complainant withdrew his complaint before a hearing date was set.

******

- A man was driving his motorcycle, accompanied by friends on their motorcycles, when they were stopped by police. The man was given a ticket for a traffic violation. He complained that the officers were abusive to him.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by using oppressive or abusive conduct or language and being discourteous or uncivil towards the complainant

  Disposition: The complainant withdrew his complaint before a hearing date was set.

******

- A disabled woman was being driven to her home when they were deterred by fire and police vehicles that were involved with a fire at a nearby residence. The police car was blocking the street and the woman's driver pulled up so the woman could explain to the officers where she needed to go and about her disability. The officer was rude to her and did not allow her to go to her residence even though it was very close by.

  Officer Misconduct: two police officers

Allegations: Abuse of authority by being discourteous or uncivil towards the complainant

Disposition: The complainant failed to attend the hearing so the judge dismissed the allegations.

******

- A man complained that police had come to his home in the early morning hours and searched it without a warrant and without his permission. The man also complained that he was physically assaulted by the officers and verbally abused.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by searching the residence without legal authority, using excessive force on the complainant, using oppressive or abusive conduct or language and being discourteous or uncivil towards the complainant

  Disposition: A hearing date was set but before it took place, the matter was resolved informally between the parties.

******

- A woman had been at a neighborhood BBQ party. When she returned home, she found her front door open and two police officers standing inside the doorway. A third police officer arrived while she was asking the officers about their presence in her home. A verbal argument began and escalated into a physical confrontation which resulted in her being arrested and taken to the the Intoxicated Persons Detention Centre (drunk tank). She was injured during the struggle and again at the drunk tank during a second struggle.

  Officer Misconduct: three police officers

  Allegations: Abuse of authority by arresting the complainant under the *Intoxicated Persons Detention Act* while she was on her property, using excessive force and using oppressive or abusive conduct or language

  Disposition: A hearing date was set but before it took place, the matter was resolved informally between the parties.

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- A woman was the manager of a travel agency. The business had been broken into during the early morning hours and police called her to the scene. After it was determined that very little had been stolen, arrangements were made for a glass repair person to fix the property. The woman told police she was not comfortable being left alone at night at the scene but the police left anyway. While the police were away, a man came to the business and sexually assaulted the woman. He was just stepping through the broken window when the glass repair person arrived. The man told the glass repair person that the woman was waiting inside and then he left. The glass repair person met the woman and had her call police back to the scene.

  Officer Misconduct: two police officers

  Allegation: Abuse of authority by failing to assist the complainant in circumstances where there was a clear and present danger to her

  Disposition: A hearing date was set but, before the hearing took place, the matter was resolved informally between the parties.

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(1) Reviews by a Provincial Judge of the Commissioner's Decision to Take No Further Action - The Test for Insufficient Evidence

The commissioner is obliged to take no further action on a complaint when he determines that there is insufficient evidence to justify referring the matter to a public hearing. Recently, provincial judges have analyzed the role of the Commissioner in conducting this assessment.

In his decision in *LERA Complaint No. 3599*, Judge Chartier dealt with the standard of review that a judge must apply when reviewing a decision of the commissioner to take no further action. This decision is discussed in the 2002 Annual Report on p. 22 and in the 2000 Annual Report on p. 32. In his decision Judge Chartier noted that the role of the commissioner was akin to the role of a Provincial Court judge at a preliminary inquiry in a criminal matter. At a preliminary inquiry, a judge will generally refer a matter to trial if there is any evidence supporting the allegations against the accused.

In *LERA Complaint No. 3771* (2002) Judge Smith took the approach that the commissioner's role was essentially the same as a judge at a preliminary inquiry, and that the commissioner should refer matters to a hearing if there was any evidence supporting the allegations against the police officer. This could include a single unsupported allegation. This approach was subsequently followed by Provincial Court judges in a number of other cases.

In his 2004 decision in *LERA Complaint No. 5643*, Judge Chartier reviewed the commissioner's role in determining whether there was insufficient evidence to justify a public hearing. He noted that although the commissioner's role was like a provincial judge sitting at a preliminary inquiry, it was not identical.

Judge Chartier said that the commissioner's role is to perform a "screening" function. He referred to the Supreme Court of Canada's decision in *Cooper v. Canada* [1996] S.C.J. 115 (S.C.C.) which analyzes the role of the Canadian Human Rights Commission in investigating complaints and determining whether to send them to a public hearing. The judge noted that the commissioner, like the Human Rights Commission, is given significant investigative powers under *The Law Enforcement Review Act* to conduct a complete investigation of the complaint and is directed by legislation to take no further action on complaints for which there is insufficient evidence to justify a hearing.

Given the screening function the commissioner is intended to perform, and the nature of the investigative powers granted to the commissioner (including the employment of full-time investigators) Judge Chartier concluded that the commissioner was intended to have the ability to look behind the complaint made and conduct a limited weighing of the evidence. However, the judge was very clear that the Commissioner's role is not to make binding determinations of fact or credibility. Judge Chartier summarized his findings about the role of the commissioner as follows:

> The approach to be taken by the commissioner under section 13(1)(c) is the one described in *Cooper* (supra) where the commissioner is to "determine whether there is a reasonable basis in the evidence for proceeding to the next stage"
>
> When making this determination, the commissioner:
>
> -Must consider all of the evidence gather [sic] by his investigators and not just the prima facie elements of the complaint; and
>
> -Cannot determine credibility, draw inferences or make definitive findings of fact;
>
> -Can, in a limited way, weigh all the evidence to determine whether it registers on the scales as sufficient evidence so as to constitute a reasonable basis to proceed further.

Judge Chartier applied this approach again in *LERA Complaint No. 6099* and it has since been applied by several other provincial judges.

(2) Preliminary Motion – Time for Filing a Complaint

In *LERA Complaint No. 5328* Judge Giesbrecht dealt with an application by the respondent officers to have the matter dismissed on the basis that the commissioner had acted without jurisdiction in accepting a complaint filed after the 30 day time limit.

The commissioner is entitled to extend the period for filing a complaint when the complainant has no reasonable opportunity to make the complaint within the 30 day limit. However, the respondents argued that there was not sufficient information on the commissioner's file to support the position that the complainant had no reasonable opportunity to file the complaint.

The commissioner argued that it was in fact the respondent officers' burden to prove that there was "a reasonable opportunity" for the complaint to be filed. Otherwise, the commissioner would be required to conduct an extensive investigation every time that a timeline was extended. Further, the commissioner argued that the public interest nature of *The Law Enforcement Review Act* means that its provisions should be interpreted broadly and liberally in order to achieve the purpose of the act.

In this case, the judge noted that the complainant was out of town for a period and her friends had initially dissuaded her from making a complaint. She also noted that the delay was not excessive and the complainant had, right after the incident, phoned the Winnipeg Police Service (WPS) general number to get the officers' badge numbers. Judge Giesbrecht noted that the complainant was unaware of the 30 day time limit and while this was not an excuse, it also appeared that the police may have failed to inform her of her right to make a complaint and the time limit for doing so. This is their duty under the act when a person makes a verbal complaint. The respondents' motion was dismissed and the matter proceeded to a hearing.

(3) *The Law Enforcement Review Act* – Amendments

On November 25, 2004, *The Cross Border Policing Act* came into force. This act has an important impact on LERA's jurisdiction and made a number of amendments to *The Law Enforcement Review Act*.

Under *The Cross Border Policing Act* (and through corresponding changes to *The Law Enforcement Review Act*) the conduct of Manitoba police officers who are appointed as police officers in other jurisdictions is subject to *The Law Enforcement Review Act*.

Other amendments that were made to *The Law Enforcement Review Act* through *The Cross Border Policing Act* permit the commissioner to investigate the conduct of members of other police forces working in Manitoba. The commissioner may refer such matters to Provincial Court judge to review and potentially make recommendations about police practices or policies. The Provincial Court judge may not, however, make any findings or impose penalties on a police officer from another jurisdiction.

Contributing Causes

Section 22 of *The Law Enforcement Review Act* states:

> *"When the commissioner identifies organizational or administrative practices of a police department which may have caused or contributed to an alleged disciplinary default, the commissioner may recommend appropriate changes to the chief of police and to the municipal authority which governs the police department."*

Recommended changes follow:

- A man and his wife had separated about two months. They got into an argument when he was returning the children to her house and the woman lunged at him. She slapped him and when he grabbed her wrists to stop the assault, she head butted him in the face, cutting his lips. The man went to the police station to file an assault complaint. The officer at the station was busy and couldn't take his complaint. He advised the man to go home and call the police station to make the complaint. The man left the police station and went to his wife's home and spoke to his father-in-law. He was told that everything was alright and that his wife had not called police despite having told him earlier that she was going to call them. On the basis of this information, the man went to his home and did not call police.

- The man's wife did call police to file a complaint of assault and threats from her husband. The same officer who had told the man to call in his complaint was one of the officers assigned to the wife's complaint. When he went to arrest the man, he recognized him and confirmed the injuries that the man had reported earlier. As a result, documentation was forwarded to the Crown asking for an opinion on a charge of assault against the man's wife as well.

- Although the commissioner felt that no default under *The Law Enforcement Review Act* had been committed by the officer, he was concerned that police policy was flawed. He felt that, if a person went to a police station to file a complaint, that person should be assisted at the station, not told to go home and call in the complaint by telephone. The commissioner wrote to the chief of police suggesting he review the situation and make appropriate changes.

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- A woman was at her aunt's house with other relatives and became intoxicated during the afternoon. She was verbally abusive and claimed that one of the relatives had robbed her. She called police and when they arrived, the relatives told them the woman was the trouble maker. The aunt had told the woman to leave but she had refused. The aunt told police she wanted the woman out. The woman did not co-operate with the police and had to be carried out of the house. The woman complained later that the officers used excessive force and broke a bone in her leg. The officers denied this and one of the relatives supported their statement, saying the police's actions were not excessive. The woman had not complained at the time that the police were hurting her. The medical report showed that the woman had a broken bone in her leg.

- The commissioner felt that excessive force could not be proven and that there was insufficient evidence to justify a public hearing. He declined to take further action on this allegation.

- However, the commissioner noted that the authority used by the officers to arrest the woman was shown as the *Intoxicated Persons Detention Act*. This act deals with intoxicated persons in public places, not private residences. While an arrest was justified, the proper authority was under the Criminal Code for breach of the peace. The commissioner wrote to the chief of police advising him that the wrong authority for arrest was used and suggested that this had been observed on several occasions and required correction.

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Statistical Analysis

- LERA's jurisdiction extends to 14 police services with a police officer complement of 1,349. Total population served is 724,730.
- Winnipeg Police Service accounts for 90 per cent of complaints made to LERA. Brandon Police Service for six per cent and other forces account for the remainder.
- There were 367 files opened in 2004, a drop of 54 complaints compared to 2003. The five-year average is 369.
- The 252 formal complaints filed are the highest ever recorded. As with the previous two years, this figure remains substantially higher than the number of files for which formal complaints were never received or were closed after a preliminary investigation (115 complaints). This reflects the efforts of LERA to provide better service by following up with complainants to ensure that they are heard.
- The number of investigations carried over from 2003 combined with new complaints for 2004, continues to be high and taxes LERA staff. In 2003 there were 447 total investigations. In 2004 there were 495 investigations, an increase of 48.
- There was an increase in the number of investigations completed over the previous year, from 205 to 216.
- A total of 31 per cent of files opened in 2004 were closed as a result of a complaint not being received, or, after a preliminary investigation. This compares to 41 per cent in 2003.
- The average length of time to complete investigations increased to 13 months from nine months in 2004. In 2003, about half of the concluded files were from the current year. In 2004, only a third of the concluded files were from the current year. Far more old files than new files were concluded which increased the time to conclude a file.
- In 2004 there was an increase in the number of allegations of disciplinary defaults recorded in three of the five main categories: arrest without reasonable or probable grounds, using unnecessary or excessive force, and using oppressive or abusive conduct or language. There was a decrease in abuse of authority, and being discourteous or uncivil. When numerous allegations are made in a complaint, a concerted effort is being made to identify and record the default at the outset.
- Complaints under the category of abuse of authority include, but are not limited to, allegations of breaches of the *Canadian Charter of Rights and Freedoms*, unlawful arrests, unlawful searches and breaches of *The Intoxicated Persons Detention Act*.
- The number of complaints alleging the misuse of pepper spray remains consistent.
- Incidents alleging misuse of handcuffs increased to 42 and were made in 17 per cent of complaints investigated.
- Incidents alleging injuries from the use of force increased to 125 and were made in 50 per cent of complaints investigated.

- The rate of informal resolution of complaints remained in the same range as in 2003. As a public service agency, LERA actively supports and, whenever possible, engages in alternative dispute resolution aimed at restoring social harmony between affected parties. This method of complaint resolution remains a priority.
- Complainants' requests for reviews by a provincial judge of the commissioner's decision decreased from 13 to 12 in 2004.
- LERA is not mandated to conduct criminal investigations. Where a matter before the commissioner or a provincial judge discloses evidence that a member may have committed a criminal offence, the commissioner or provincial judge shall report the possible criminal offence to the attorney general.
- In recent years, if there is an inference of criminal misconduct, LERA investigators will inform the complainant that a criminal complaint may also be made to the police force where the incident occurred. In 2004, 11 criminal complaints were lodge with police where a LERA complaint was also filed. However, there were no incidents that arose where the commissioner was required to report criminal offences to the attorney general. See Tables 11 and 12.

2004 Statistical Report – Data Tables

Table 1: Complaints listed by Police Service	Police Officers **	Population ***	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)	2000 (n=191)
Altona	6	3,434	0.	1 (0.5%)	0	0	1 (0.5%)
Brandon	71	39,716	14 (6%)	16 (6%)	14 (6%)	16 (7%)	22 (12%)
Dakota Ojibway	26	10,424	2 (.8%)	7 (3%)	17 (7%)	0	1 (0.5%)
RM East St. Paul	10	7,677	1 (.4%)	0	0	2 (1%)	0
Morden	7	6,142	0	0	0	0	0
Rivers	3	1,119	0	0	0	1 (0.5%)	0
Ste. Anne	3	1,513	1 (.4%)	0	0	0	1 (0.5%)
Winkler	13	7,943	2 (.8%)	0	0	0	0
Winnipeg	1203	619,544	228 (90%)	225 (90%)	195 (86%)	206 (91%)	165 (86%)
*RM Cornwallis	1	3,779	0	0	0	0	0
*RM Springfield	2	12,602	0	0	0	0	0
*RM St. Clements	1	9,115	0	0	0	0	0
*RM Victoria Beach	1	265	1 (.4%)	0	1 (1%)	0	0
*RM of Whitehead	1	1,457	2 (.8%)	0	0	0	0
Other	1	0	1 (.4%)	1 (.5%)	0	0	1
Total	**1349**	**724,730**	**100%**	**100%**	**100%**	**100%**	**100%**

*Supplementary police service – RCMP have primary responsibility
**Source: Director, Aboriginal and Community Law Enforcement, Manitoba Justice
***Source: Statistics Canada, Dakota Ojibway Police Commission

Table 2: Public Complaints	2004	2003	2002	2001	2000
Files opened	367	421	372	322	365
Formal complaint not received/closed after preliminary investigation	115	171	145	97	174
Formal complaint received	252	250	227	225	191

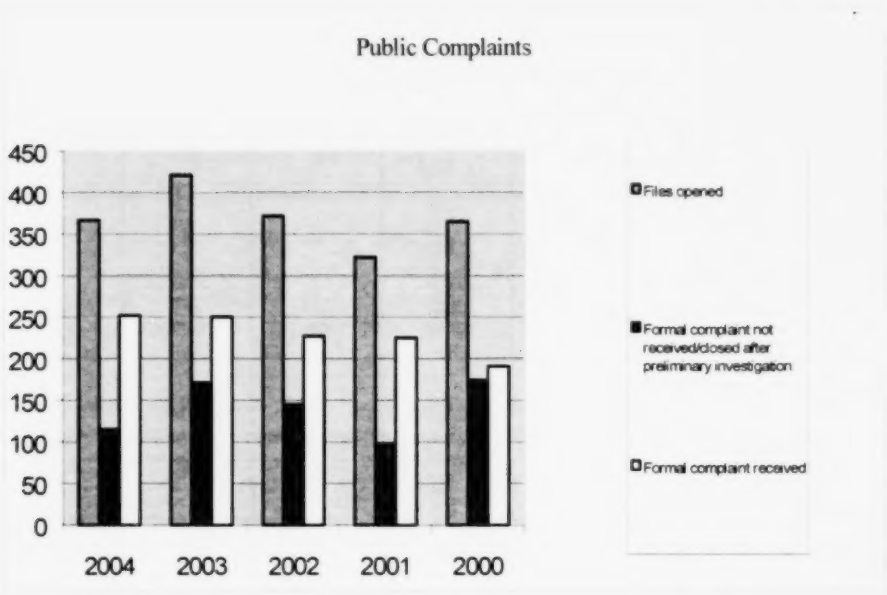

Table 3: Investigations Conducted	2004	2003	2002	2001	2000
Total investigations	495	447	430	436	356
Investigations completed - files closed	216	205	235	212	141
Ongoing investigations carried over as of December 31, 2004	279	242	195	224	215

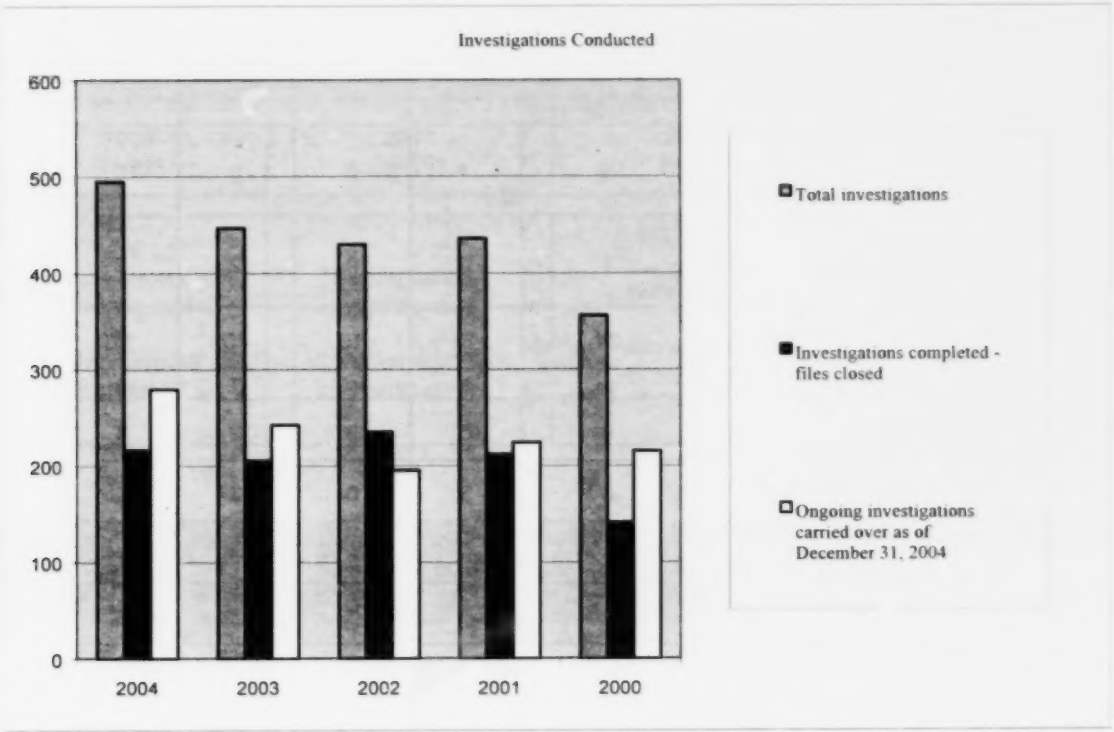

Table 4: Complainant's Allegations: Discipline Code Section 29 *The Law Enforcement Review Act*	**2004**	**2003**	**2002**	**2001**	**2000**
Abuse of authority Sec. 29(a)	114	167	137	121	60
Arrest without reasonable or probable grounds Sec. 29(a)(i)	24	20	24	25	18
Using unnecessary or excessive force Sec. 29(a)(ii)	149	136	108	111	77
Using oppressive or abusive conduct or language Sec. 29(a)(iii)	125	114	110	101	59
Being discourteous or uncivil Sec. 29 (a)(iv)	77	114	107	82	76
Seeking improper personal advantage Sec. 29(a)(v)	1	1	0	0	0
Serving civil documents without proper authorization Sec. 29(a)(vi)	1	0	0	2	2
Discrimination Sec. 29(a)(vii)	21	12	13	15	12
Making false statement(s) Sec. 29(b)	14	8	9	7	3
Improperly disclosing information Sec. 29(c)	4	6	3	2	4
Failing to exercise care or restraint in use of firearm Sec. 29(d)	0	3	0	2	1
Damaging property or failing to report damage Sec. 29(e)	5	5	9	0	7
Failing to provide assistance to person(s) in danger Sec. 29(f)	4	2	6	2	1
Violating person's privacy (under *The Privacy Act)* Sec. 29(g)	0	0	1	0	1
Contravening *The Law Enforcement Review Act* Sec. 29(h)	1	0	0	0	0

Table 5: Incidents Alleging Misuse of Pepper Spray			
2004 (n=5)	**2003 (n=4)**	**2002 (n=2)**	**2001 (n=3)**
2% of 252 complaints investigated Winnipeg=4 Brandon=1	2% of 250 complaints investigated Winnipeg=4	1% of 227 complaints investigated Winnipeg =1 *DOPS = 1	1% of 225 complaints investigated Winnipeg = 2 Brandon =1

*Dakota Ojibway Police Service

Table 6: Incidents Alleging Misuse of Handcuffs			
2004 (n=42)	**2003 (n=26)**	**2002 (n=9)**	**2001 (n=11)**
17% of 252 complaints investigated Winnipeg=39 Brandon=3	10% of 250 complaints investigated Winnipeg=25 Brandon=1	4% of 227 complaints investigated Winnipeg = 7 Brandon =1 DOPS = 1	5% of 225 complaints investigated Winnipeg = 8 Brandon =3

Table 7: Incidents Alleging Injuries from Use of Force			
2004 (n=125)	**2003 (n=106)**	**2002 (n=71)**	**2001 (n=70)**
50% of 252 complaints Winnipeg=120 Brandon=4 RM Whitehead=1	42% of 250 complaints investigated Winnipeg = 101 Brandon = 2 DOPS = 3	31% of 227 complaints investigated Winnipeg =69 Brandon = 1 DOPS =1	31% of 225 complaints investigated Winnipeg = 61 Brandon =9

Table 8: **Disposition of Complaints**	**2004** **(n=216)**	**2003** **(n=205)**	**2002** **(n=235)**	**2001** **(n=212)**	**2000** **(n=141)**
Dismissed by commissioner as outside scope of act	22 (10%)	26 (13%)	28 (12%)	25 (12%)	11 (8%)
Dismissed by commissioner as frivolous or vexatious	1 (0.5%)	26 (13%)	32 (14%)	8 (4%)	1 (0.7%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	56 (26%)	64 (31%)	81 (34%)	72 (34%)	42 (30%)
Abandoned or withdrawn by complainant	117 (54%)	80 (39%)	75 (32%)	88 (41%)	65 (47%)
Resolved informally	5 (2%)	6 (3%)	8 (3%)	8 (4%)	19 (12%)
Public hearing before a provincial court judge	15 (7%)	5 (1%)	12 (5%)	11 (5%)	3 (2%)
Admission of guilt by respondent officer	0	0	0	0	0

Table 9: Legal Involvement of Complainants	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)	2000 (n=191)
No charges	83 (33%)	91 (36%)	107 (47%)	114 (51%)	68 (36 %)
Traffic offences	23 (9%)	17 (7%)	21 (9%)	12 (5%)	15 (8%)
Property offences	47 (19%)	37 (15%)	14 (6 %)	4 (2%)	15 (8%)
Intoxicated persons detention	14 (6%)	8 (3%)	8 (4%)	12 (5%)	9 (5%)
Cause disturbance	2 (0.8%)	1 (.4%)	3 (1%)	4 (2%)	3 (2%)
Assault police officer/resist arrest	23 (9%)	21 (8%)	17 (8%)	18 (8%)	13 (7%)
Impaired driving	5 (2%)	3 (1%)	3 (1%)	3 (1%)	4 (2%)
Offences against another person	18 (7%)	21 (8%)	12 (5 %)	6 (3%)	14 (7%)
Domestic disputes	9 (4%)	5 (2%)	5 (2 %)	6 (3%)	12 (6%)
Other	28 (11%)	46 (18%)	37 (16 %)	46 (20%)	38 (20%)

Table 10: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	2004	2003	2002	2001	2000
	12	13	22	13	5

Table 11: Referrals of Complaint to Crown for Criminal Investigation	2004	2003	2002	2001	2000
	0	0	0	0	1

Table 12: LERA Complaints Where Complainant Lodged a Criminal Complaint with Police	2004	2003	2002	2001	2000
	11	11	19	25	22

Table 13: Time Span of Ongoing Investigations Carried Over as of December 31, 2004

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2000	0	0	0	0	0	1	1
2001	0	0	0	0	0	3	3
2002	0	0	0	0	0	19	19
2003	0	0	2	42	12	0	56
2004	70	69	61	0	0	0	200
Total	**70**	**69**	**63**	**42**	**12**	**23**	**279**

Table 14: Files Concluded in 2004 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
1999	1	59 months
2000	2	42.5 months
2001	8	35 months
2002	35	23 months
2003	118	11 months
2004	52	5 months
Total	216	13 months

Table 15: Length of Time to Complete Investigations	2004 (n=216)	2003 (n=205)	2002 (n=235)	2001 (n=212)	2000 (n=141)
1-3 Months	35	44	46	40	12
4-7 Months	42	63	51	45	44
8-12 Months	47	46	58	38	48
13-18 Months	39	28	29	51	27
19-23 Months	26	11	23	25	5
24+ Months	27	13	28	13	5
Average	13 Months	9 months	12 months	13 Months	11 months

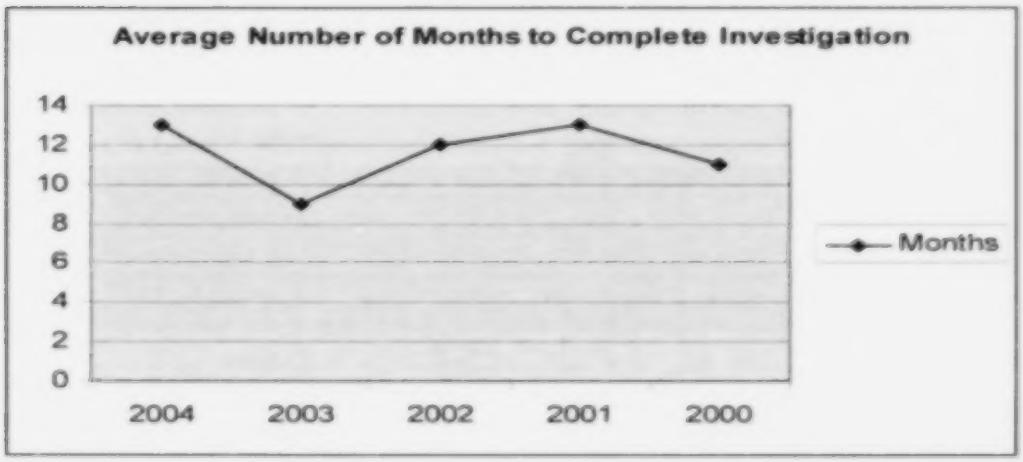

Table 16: Location of incident	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)	2000 (n=191)
Street	102	83	79	79	58
Private residence	62	75	67	64	59
Public building/place	17	23	18	25	19
Police station	49	49	35	36	30
Other	22	20	28	21	25

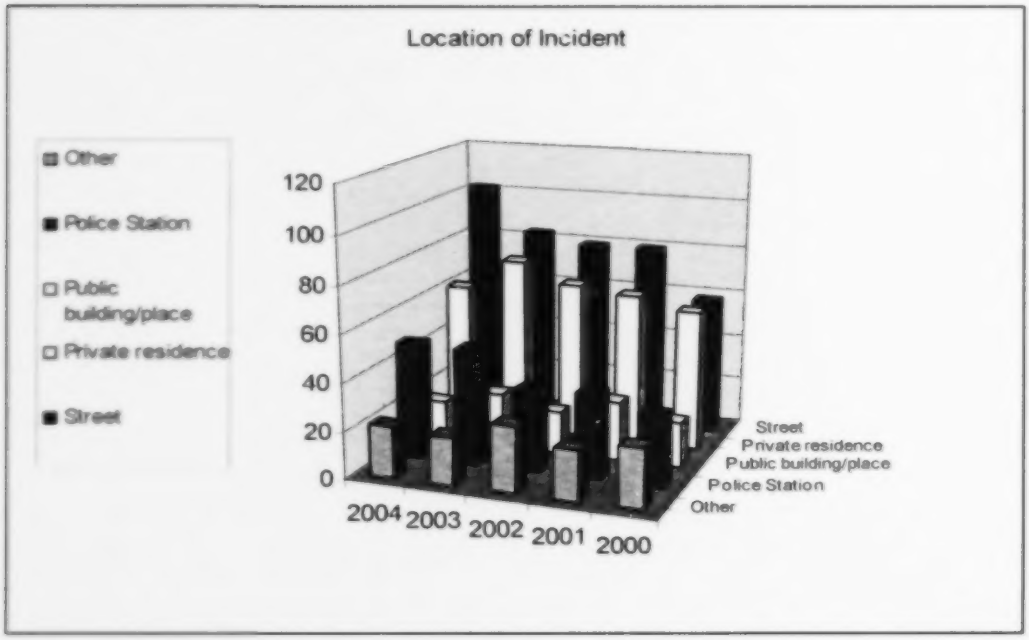

Table 17: Complainant Demographics	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)	2000 (n=191)
Sex					
Male	181 (72%)	172 (69%)	152 (67%)	155 (69%)	133 (70%)
Female	71 (28%)	78 (31%)	75 (33%)	70 (31%)	58 (30%)
Age					
Over 50	13 (5%)	33 (13%)	23 (10%)	24 (11%)	25 (13%)
40 - 49	35 (14%)	32 (13%)	40 (18%)	44 (20%)	53 (28%)
30 - 39	44 (17%)	45 (18%)	53 (23%)	45 (20%)	38 (20%)
18 – 29	67 (27%)	55 (22%)	64 (28%)	69 (30%)	55 (29%)
Youth under 18	57 (23%)	44 (18%)	14 (6%)	12 (5%)	8 (4%)
Birth dates unknown	36 (14%)	41 (16%)	33 (15%)	31 (14%)	12 (6%)

Includes 10% post-consumer waste